

MOTOR VEHICLE SALES FINANCE ACT (EXCERPT)
Act 27 of 1950 (Ex. Sess.)

492.102 Definitions.

Sec. 2. Except where the context indicates otherwise, as used in this act:

1. "Motor vehicle" means a self-propelled device by which a person or property may be transported upon a public highway. Motor vehicle does not include tractors, motorcycles, trailers, semitrailers, power shovels, road machinery, agricultural machinery, and other machinery not designed primarily for highway transportation but which incidentally transports persons or property on a public highway. Motor vehicle also does not include devices that move upon or are guided by a track or travel through the air.

2. "Person" means an individual, partnership, association, corporation, governmental entity, or any other legal entity.

3. "Installment buyer" or "buyer" means a person who buys, hires, or leases a motor vehicle for personal, family, or household use and not for commercial, business, or agricultural use, under an installment sale contract or a legal successor in interest to that person, and shall continue to designate that person notwithstanding that he or she may have entered into 1 or more extensions, deferments, renewals, or other revisions of the original contract.

4. "Installment seller" or "seller" means a person engaged in the business of selling, offering for sale, hiring, or leasing motor vehicles under installment sale contracts or a legal successor in interest to that person. As used in this subdivision, "business" does not include an isolated sale.

5. "Holder" means a person, including a seller, who is currently entitled to the rights of a seller under an installment sale contract.

6. "Sales finance company" means a person engaged as principal, agent, or broker in the business of financing or soliciting the financing of installment sale contracts made between other parties, and includes the business of acquiring, investing in, or lending money or credit on the security of the retail seller's interest in such contracts whether by discount, purchase, or assignment of those contracts, or otherwise. The term does not include a person, financial institution, or sales finance company that takes assignments of, or an interest in, an aggregation of installment sale contracts only as security for bona fide commercial loans under which, in the absence of default or other bona fide breach of the loan contract, ownership of the contracts remains vested in the assignor and collection of payments on the contracts is made by the assignor, nor a person who purchases installment sale contracts from a sales finance company or a financial institution. The term includes a person, whether or not licensed under this act, who as a seller finances installment sale contracts for other sellers or sales finance companies. The term includes a financial institution.

7. "Financial institution" means a state or national chartered bank, a state or federal chartered savings and loan association, or state or federal chartered credit union that elects to come under the provisions of this act.

8. "Retail sale" means the sale of a motor vehicle for use by the buyer or for the benefit or satisfaction which the buyer may derive from the use of the motor vehicle by another.

9. "Installment sale contract" or "contract" means a contract for the retail sale of a motor vehicle, or which has a similar purpose or effect, under which part or all of the price is payable in 2 or more scheduled payments subsequent to the making of the contract, or as to which the obligor undertakes to make 2 or more scheduled payments or deposits that can be used to pay part or all of the purchase price, whether or not the seller has retained a security interest in the motor vehicle or has taken collateral security for the buyer's obligation, and includes a loan, mortgage, conditional sale contract, purchase-money chattel mortgage, hire-purchase agreement, or contract for the bailment or leasing of a motor vehicle under which the hire-purchaser, the bailee, or the lessee contracts to pay as compensation a sum substantially equivalent to or in excess of the value of the motor vehicle, and any other form of contract that has a similar purpose or effect. The terms do not include a sale or contract for sale upon an open book account in which the seller has not retained or taken a security interest in the motor vehicle sold or collateral security for the buyer's obligation, the buyer is not required to pay any sum other than the cash price of the motor vehicle sold in connection with the sale or extension of credit, and the buyer is obligated to pay for the motor vehicle in full within 90 days after the time the sale or contract for sale was made. These terms also mean and apply to any extension, deferment, renewal, or other revision of an installment sale contract.

10. "Cash price" means the price measured in dollars at which the seller would in good faith sell to the buyer or to any other buyer under like circumstances, and the buyer would in good faith buy from the seller, the motor vehicle that is the subject matter of the installment sale contract if the sale were a sale for cash instead of an installment sale.

11. "Down payment" means all partial payments, whether made in cash or otherwise, received by or for the benefit of the seller before or substantially contemporaneous with either the execution of the installment sale

contract or the delivery of the goods sold under that contract, whichever occurs later.

12. "Principal amount financed" means the unpaid cash price balance after deducting the down payment, adding the cost of any insurance premiums required or obtained as security for or by reason of the sale of a motor vehicle under an installment sale contract, and adding other costs necessary or incidental to the sale of the motor vehicle under the contract which the seller contracts to pay on behalf of the buyer and for the amount of which the seller agrees to extend credit to the buyer and for which the buyer contracts voluntarily.

13. "Finance charge" means that term as defined in section 106 of chapter 1 of the truth in lending act, title I of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1605.

14. "Time balance" means the sum of the principal amount financed and the finance charge.

15. "Security interest" means a property right in the motor vehicle that is the subject of an installment sale contract, if the right is retained to secure performance of an obligation of the buyer under that contract and an extension, deferment, renewal, or other revision of that contract. The term includes a lien or encumbrance against that motor vehicle, a mortgage interest in that motor vehicle, and a reservation of title to that motor vehicle, whether or not expressed to be absolute, if the title is in substance retained only for security.

16. "Collateral security" means security, other than a security interest in a motor vehicle that is the subject of an installment sale contract, which is given to secure performance of an obligation of the buyer, or of any surety or guarantor for the buyer, under an installment sale contract or an extension, deferment, renewal, or other revision of that contract. The term includes the undertakings of any surety or guarantor for the buyer and any interest in, encumbrance on, or pledge of real or personal property other than the motor vehicle which is the subject of the installment sale contract.

17. "Administrator" means the commissioner of the financial institutions bureau, department of commerce.

18. "Licensee" means a person issued a license under this act as an installment seller or a sales finance company, which license has not expired or has not been surrendered or revoked, and, in the plural, means a person or persons licensed under 1 or both of these 2 classifications. The term includes financial institution as defined in this section.

19. "Public sale" means a public sale after advertisement of each motor vehicle in at least 2 successive publications in a newspaper having general circulation in the village, city, or township in which the sale is to be held. The advertisement shall disclose the place where the motor vehicle is stored and may be inspected, the date, time, and place of the sale, and the make, model, and serial number of the vehicle.

History: 1950, Ex. Sess., Act 27, Eff. Mar. 31, 1951;—Am. 1951, Act 171, Imd. Eff. June 8, 1951;—Am. 1952, Act 103, Eff. July 1, 1952;—Am. 1970, Act 114, Imd. Eff. July 23, 1970;—Am. 1984, Act 339, Eff. Mar. 29, 1985;—Am. 1995, Act 166, Eff. Mar. 28, 1996.